evidence of the similarity between the natural gas and the irrigation companies. The irrigation company cannot grant exclusive rights,[17] nor undertake to give its entire supply to one consumer.[18]

A recent case [19] has arisen, where, although the supply of gas was normally more than adequate, the company was unable to supply the abnormal demands made by the consumers during a period of fifteen or twenty days of extremely cold weather. The court, considering the short duration of the period of deficiency and without deciding the question presented in *State ex rel. Wood* v. *Consumers Gas Trust Co.*,[20] ordered the company to give to the relator the connection which he sought.[21] This result seems sound. The real dispute in these cases is between the old consumers and the new one. Here the old consumers were demanding an unusual amount of gas for this short period. As between them and the new consumer, this was an unreasonable demand. It is only where the new consumer is cutting into the normal supply of the old one that the result in *State ex rel. Wood* v. *Consumers Gas Trust Co.*[22] becomes objectionable.

RECENT CASES

BAILMENTS — BAILEE AND THIRD PERSONS — RIGHT OF BAILEE TO RECOVER FULL DAMAGES FROM SURETY OF CONVERTER. — The defendant was surety for $2,000 on a postal employee's bond which was conditioned on his accounting for all property which came into his hands as clerk. The employee stole $15,000. The government, though its own liability to the owner was limited to $50, sued for the full amount of the bond. *Held*, that the govern-

---

the right of eminent domain, bound to furnish gas to consumers along their lines and within their respective districts . . . under ordinary rules of law applying to public service corporations in general. From the very nature of the source of supply this cannot mean that they are bound to furnish all consumers along their lines with all the gas they might require, but only that they shall furnish whatever gas they have to all who desire to become consumers along their lines, with a reasonable degree of equality. While it has not yet been held that a contract by which a natural gas company would undertake to give all its supply to one consumer is void as against public policy, such a contract certainly tends to encourage, if not to compel, the gas company to default in its duties to the general public, and is therefore not to be favored." *Per* Shafer, J., in Clairton Steel Co. *v.* Manufacturers Light & Heat Co., 240 Pa. 427, 438, 87 Atl. 998, 1002 (1913).

[17] Leavitt *v.* Lassen Irrigation Co., 157 Cal. 82, 106 Pac. 404 (1909.)

[18] Sammons *v.* Kearney Irrigation Co., 77 Neb. 580, 110 N. W. 308 (1906).

[19] Park Abbott Realty Co. *v.* Iroquois Natural Gas Co., 168 N. Y. Supp. 673 (1918). See Recent Cases, page 000.

[20] 157 Ind. 345, 61 N. E. 674 (1901).

[21] The relator applied for the connection before building the house and before the period of shortage. Upon the happening of the shortage, the Public Service Commission ordered the gas company to make no more connections, and, relying on this order, the company refused the connection to the relator when he completed his house. The court, in making its decision, considers the element of estoppel. However, it is evident that such consideration can have no weight. Estoppel could at best give the relator a merely private right, which could not be the foundation of a writ of mandamus.

[22] *Supra*, note 20.

ment can recover. *United States Fidelity & Guaranty Co.* v. *United States*, 246 Fed. 433.

Grounded on the old English property conception of possession being of primary importance, the rule that a bailee may recover entire damages for injuries to a bailed article irrespective of his liability over, is well established. *The Winkfield*, [1902] P. 42; *Ullman* v. *Barnard*, 7 Gray (Mass.), 554; *Chamberlain* v. *West*, 37 Minn. 54; *Union Pacific Co.* v. *Meyer*, 76 Neb. 549, 107 N. W. 793. See HOLMES, THE COMMON LAW, c. 5. If the bailee may recover from the employee who converts property intrusted to him, it seems clear he should be able to recover from the surety on a bond which called for the faithful paying over by the employee of any property he might receive. *United States* v. *Griswold*, 9 Ariz. 314, 80 Pac. 317; *United States* v. *American Surety Co.* 155 Fed. 941; *Gibson* v. *United States*, 208 Fed. 534. After a bailee has made full recovery he is responsible to the bailor for all he has recovered above the value of his own interest. See SEDGWICK, DAMAGES, 9 ed., § 76. It would seem that after the government has recovered from the wrongdoer or his surety, the bailor should be allowed to sue the government in the Court of Claims and should not be dependent merely on the government's benevolence. See 24 STAT. AT L. 505.

COMMON CARRIERS — REASONABLE SERVICE — DISCRIMINATION. — On the application of certain "snow bird" coal miners, whose mines were only temporarily opened because of the shortage of coal and the resultant high prices, the Public Service Commission of West Virginia ruled that a regulation of the applicant railroad, providing for the furnishing of open-top cars only to miners who had tipple-loaders, a device for speedy loading of cars, which could be used only with open-top cars, was unjustly discriminatory, and ordered that these cars be provided to all miners applying in proportion to the capacity of their mines. The exceptional demand for cars created a shortage, and the railroad was supplying only box cars to the small mines. *Held*, that the order of the Commission be annulled. *Baltimore, etc. R. Co.* v. *Public Service Commission*, 94 S. E. 545 (W. Va.).

The common carrier is under a duty to provide a sufficient number of cars for any ordinary exigency; but it is not bound to provide cars for extraordinary and unforeseeable emergencies. *Shoptaugh* v. *St. Louis, etc. R. Co.*, 147 Mo. App. 8, 126 S. W. 752; *Wall Milling Co.* v. *Atchison, etc. Ry. Co.*, 82 Kan. 256, 108 Pac. 137. See *Anderson* v. *Chicago, etc. R. Co.* 88 Neb. 430, 437, 129 N. W. 1008, 1011. But it is the duty of the carrier to provide the facilities which it possesses to all who make demand, without discrimination. *Chicago, etc. R. Co.* v. *Wolcott*, 141 Ind. 267, 39 N. E. 451; *Sonman Shaft Coal Co.* v. *Pennsylvania R. Co.*, 241 Pa. 487, 88 Atl. 746. This question of discrimination, however, must be tested by what is reasonable. If the discrimination is not unjust, then the carrier may employ it without any violation of the principle of equality. *United States ex rel. Pitcairn Coal Co.* v. *Baltimore, etc. R. Co.*, 154 Fed. 108; *Logan Coal Co.* v. *Pennsylvania R. Co.*, 154 Fed. 497; *Gulf Compress Co.* v. *Alabama Great Southern R. Co.*, 100 Miss. 582, 56 So. 666. And the regulation in question appears clearly reasonable under the circumstances. It has even been held that a railroad is justified in refusing cars to any except tipple-loaders, if a shortage of cars justifies such policy, and no discrimination is practised between mine-owners similarly circumstanced. *Harp* v. *Choctaw, etc. R. Co.*, 125 Fed. 445; *Thompson* v. *Pennsylvania R. Co.*, 10 I. C. C. 640. The sole question then remaining is whether the carrier is providing a reasonable service to the public and the mine-owners. And, since the answer to this question must depend on the foreseeability of the emergency, and since the railroad is meeting the situation as well as its equipment will permit, it would seem that the service provided is all that could reasonably be expected. *Pennsylvania*